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10/772,560	02/05/2004	Patricia Lewis	H28443	5508
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EXAMINER				
CHIN SHUE, ALVIN C				
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/772,560
Filing Date: February 05, 2004
Appellant(s): LEWIS ET AL.

Attorney Fairchild
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/15/10 appealing from the Office action mailed 4/26/10.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1, 2 and 11-16

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

4,682,671	Hengstenberger et al.	7-1987
2,758,769	Nunn et al.	8-1956
2,568,304	Schoenbrun	9-1951
6,447,037	Crouch	9-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hengstenberger et al. '671 in view of Nunn et al and Schoenbrun.

Hengstenberger shows a drag harness 10 of a type used by a rescuer to drag a wearer lying in a supine position from a perilous situation, the drag harness comprising a single fixed length arm loop 14 for both arms and a drag grip 16, all of which are defined by a single continuous length of strapping fixed directly to itself, the arm loop having a fixed length and being adapted to receive the arms of a wearer, the claimed difference being the pair of fixed arm loops for separate arms and how the arm loops are formed. Nunn shows a harness having a pair of arm loops formed with a first arm loop defined by a first strapping length 14 that is doubled against itself to define first and second lapped lengths of the strapping, a second arm loop defined by a second strapping length 14 that is doubled against itself to define a third lapped length of the strapping, the first, second, and third lapped lengths of the strapping residing in stacked relationship at a first location 19. Schoenbrun shows a pair of fixed length arm loops comprising a first arm loop 3,B, and a second arm loop 2,A fixed at a stacked location at 1. It would have

been obvious to one of ordinary skill in the art at the time the invention was made to modify Hengstenberger for his arm loop to comprise a pair of loops formed, as taught by Nunn, for encircling each arm, and for the formed arm loops to be fixed at the stacked location, as taught by Schoenbrun, to enable fixed size loops.

Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hengstenberger et al. '671 in view Nunn et al and Schoenbrun, as applied to claim 1 above, and further in view of Crouch. Crouch shows a continuous length of strapping 20 having spaced first and second ends at 24, hand loop 16 is defined by a strapping length that is doubled against itself to define lapped lengths of the strapping that reside in stacked relationship with each other and another lapped length of the strapping at the first end, and the lapped lengths and the another length of the strapping are fixed together by stitching 24. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hengstenberger for his drag loop 16 at 12 to be formed by the free ends of is strap stacked and secured to the body of the strap, as taught by Crouch, as a known continuous strap ends hand loop connection.

(10) Response to Argument

Appellant's arguments filed 10/15/10 have been fully considered but they are not persuasive. Appellant argues that the modification of Hengstenberger et al would be improper for its intended purpose as Hengstenberger states that his harness is self-tightening and by pulling the handle 16 the loop 14 would grip the wearer of the jacket ensuring maximum engagement of the victim to pull the victim. The examiner notes that the intended purpose of Hengstenberger is to allow the dragging the dead weight of a victim to be rescued (note column 3, lines 34-54) and the modification to comprise two arm loops in lieu of only the one would accomplish the same purpose and would not be unsatisfactory as argued by Appellant, as the modified harness of Hengstenberger would grip the user when pulled by his drag grip 16 to allow rescue of a victim by dragging and thus the principle of operation of his harness would not be changed. In any obviousness rejection, some feature of the base reference is modified—the issue is whether the modification is obvious to one of ordinary skill in the art, known at the time, and would still allow the device to function – in this case, as a drag harness.

With respect to Appellant's arguments that the intended purpose of Nunn would be defeated by the modification, the examiner notes that Nunn is not being

modified, but was used to teach a pair of arm loops being formed from a single length on material by doubling against itself and residing in a stacked relationship at the joined location with the drag grip. With respect to applicant's argument to motivation for modification, the examiner notes that the difference at hand to be resolved between the harness of Hengstenberger and the claimed invention is that of the pair of fixed arm loops with its overlapping connected portion. Nunn and Schoenbrun teach the claimed difference, with Nunn teaching the forming of arm loops by the claimed double backing of the strapping and Schoenbrun teaching pair of fixed arm loops for pulling a wearer when pulled/drag by grip means 10, thus both are analogous arts and it is proper for one of ordinary skill in the art to appreciate teachings of analogous arts to resolve the difference between the main applied prior art and the claimed invention, thus the modification is deemed proper and warranted.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Alvin C. Chin-Shue/

Primary Examiner, Art Unit 3634

Conferees:

Darnell Jayne: /dj/

Katherine Mitchell: /K. W. M./

Supervisory Patent Examiner, Art Unit 3634

Alvin Chin-Shue: /A. C. C./